

REMARKS

Applicants respectfully request reconsideration of the present Application. Claim 13 has been amended herein. Care has been exercised to introduce no new matter. Claims 1-24 and 30-31 are pending and are in condition for allowance.

Rejections based on 35 U.S.C. § 102

Claims 1-2 and 12 were rejected under 35 U.S.C. 102(b) as being unpatentable by Microsoft XP operating system (XP). Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Independent claim 1 requires, in part, “an operating system section *consisting* of commonly accessed operating system specific items.” The Office cited p.1 of XP as showing commonly accessed operating system (OS) items, such as Control Panel, Set Program Access, and Printers and Faxes. However, this same section also includes non-operating system items, such as Microsoft Office Excel 2003, which is not an OS item. Applicants’ independent claim 1 requires an OS section containing only OS items. Independent claim 1 also requires, in part, “an application program section *consisting* of commonly accessed application program specific items and *a single application program menu item expanding access to all other application program specific items.*” The Office points to Internet Explorer and Adobe Acrobat as examples of commonly accessed application program specific items. But, the Office then cited the “All Programs” as allegedly describing the claimed feature of a single menu item which expands access to all other application program specific items. However, the “All Programs” opens *everything*, including application programs **and** OS items **and** the commonly accessed items already showing. Applicants’ claimed application program section *consists* (i.e. contains no other) of only application related programs. In addition, claim 1 requires that the OS section is

grouped completely separately from the application program section, which the “All Programs” item clearly does not achieve. Independent claim 1 has been shown to be allowable over the prior art of record for several reasons. Dependent claims 2 and 12 are also allowable over the prior art of record, at least for the reasons discussed above with regard to independent claim 1.

Rejections based on 35 U.S.C. § 103

A) Applicable Authority

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason—suggestions or motivations—found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. See *Application of Bergel*, 292 F.2d 955, 956-957 (CCPA 1961).

B) Obviousness Rejections Based on Microsoft XP Operating System
(hereinafter, “XP”) and YZ Dock (hereinafter, “YZ dock”)

Claims 3-8 and 10-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over XP in view of YZ dock. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Claims 3-8 and 10-11 depend from independent claim 1. As discussed above, independent claim 1 has been shown to be allowable over the prior art of XP. YZ dock is directed to special menu item features, such as animation, and does not compensate for the deficiencies of XP. Therefore, claims 3-8 and 10-11 are also allowable over the prior art of record, at least for the reasons regarding independent claim 1 discussed above.

C) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, "XP"), YZ Dock (hereinafter, "YZ dock"), and U.S. Patent No. 5,452,414 to Rosendahl et al. (hereinafter, "Rosendahl")

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over XP in view of YZ dock and in view of Rosendahl, et al. U.S. Patent No. 5,452,414. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Claim 9 depends from independent claim 1. As discussed above, independent claim 1 has been shown to be allowable over the prior art of XP and YZ dock. Rosendahl is directed to a three-dimensional rotating icon (see *Rosendahl*, Abstract), and does not compensate for the deficiencies of XP and YZ dock. Therefore, claim 9 is also allowable over the prior art of record, at least for the reasons discussed above with regard to independent claim 1.

D) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, "XP") and U.S. Patent No. 7,003,734 to Gardner et al. (hereinafter, "Gardner")

Claims 13 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over XP in view of Gardner, et al. U.S. Patent No. 7,003,734. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Independent claims 13 and 19 claim the features of an operating system section consisting of commonly accessed operating system (OS) specific items and a single menu item expanding access to all other OS specific items, and an application program section consisting of commonly accessed application program specific items and a single menu item expanding access to all other application program specific items, wherein the operating system section is grouped completely separately from the application program section. The similar arguments discussed above with regard to independent claim 1 are incorporated herein, in support of independent claims 13 and 19. In addition, independent claim 13 has been amended to also require, “the first distinct area remains in a fixed position relative to the pointer upon movement of the pointer ... and the second distinct area remains in a fixed position relative to the pointer upon movement of the pointer” and “the graphical user interface is part of an OS shell organized into a tree-structured hierarchy.” The prior art of record is silent concerning these additional claim 13 features. Therefore, independent claims 13 and 19 are allowable over the prior art of record.

E) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, “XP”), U.S. Patent No. 7,003,734 to Gardner et al. (hereinafter, “Gardner”), and YZ Dock (hereinafter, “YZ dock”)

Claims 14-18 and 20-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over XP, Gardner and in view of YZ dock. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Claims 14-18 depend from independent claim 13 and claims 20-24 depend from independent claim 19, both of which were previously shown to be allowable over the prior art of XP and Gardner. YZ dock is directed to special menu item features, such as animation, and does not compensate for the deficiencies of XP and Gardner. Therefore, claims 14-18 and 20-24 are also allowable over the prior art of record, at least for the reasons regarding their respective independent claims discussed above.

F) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, “XP”), U.S. Patent No. 7,003,734 to Gardner et al. (hereinafter, “Gardner”), YZ Dock (hereinafter, “YZ dock”), and U.S. Publication No. 2004/0179043 to Viellescaze et al. (hereinafter, “Viellescaze”)

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over XP, Gardner, YZ dock and in view of Viellescaze. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Claim 17 depends from claim 14, which was previously shown to be allowable over the prior art of XP, Gardner, and YZ dock. Viellescaze is directed to animating a figure (see *Viellescaze*, Abstract), and does not compensate for the deficiencies of XP, Gardner, and YZ dock. Therefore, claim 17 is also allowable over the prior art of record, at least for the reasons discussed above with regard to claim 14.

G) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, “XP”), U.S. Patent No. 7,003,734 to Gardner et al. (hereinafter, “Gardner”), and U.S. Publication No. 2004/0179043 to Viellescaze et al. (hereinafter, “Viellescaze”)

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over XP, Gardner and in view of Viellescaze. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Claim 23 depends from claim 20, which was previously shown to be allowable over the prior art of XP and Gardner. Viellescaze is directed to animating a figure (see *Viellescaze*, Abstract), and does not compensate for the deficiencies of XP and Gardner. Therefore, claim 23 is also allowable over the prior art of record, at least for the reasons discussed above with regard to claim 20.

H) Obviousness Rejections Based on Microsoft XP Operating System (hereinafter, "XP") and U.S. Patent No. 5,452,414 to Rosendahl et al. (hereinafter, "Rosendahl")

Claims 30-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over XP in view of Rosendahl. Applicants respectfully traverse and request withdrawal of said rejection for the following reasons.

Independent claim 30 requires, in part, a first section consisting of commonly accessed operating system (OS) specific items and a single OS menu item expanding access to all other OS specific items, and a second section consisting of commonly accessed application program (AP) specific items and a single AP menu item expanding access to all other AP specific items, wherein the first section is grouped completely separately from the second section. The similar arguments discussed above with regard to independent claim 1 are incorporated herein, in partial support of independent claim 30. In addition, independent claim 30 also requires, "wherein the animated three-dimensional appearing icon provides an animated indication of a first action that will occur if a first OS or AP menu item is selected, and further *morphs* into a second appearance when the pointer moves over a second OS or AP menu item to

provide an *animated indication of a second action that will occur if the second OS or AP menu item is selected.*” The Office cited Rosendahl (col.4 lines 13-19) as allegedly describing this claimed feature. Rosendahl describes how an icon would rotate to the right and display a different face if clicked upon. However, Rosendahl also states that “Additional faces of the icon cube 25, a total of five faces in this particular embodiment, might also be used to display information about the object, such as its size, its creator, appropriate copyright and patent notices, the last date on which the document was modified, etc.” (see *Rosendahl*, col.4 lines 23-28). The additional faces of Rosendahl clearly do not indicate a second action that will occur if selected. In addition, claim 30 requires that the first menu item *morphs* into the second item. As described in Applicants specification at ¶ [45], an object “morphs” by changing the contextual appearance of the same animated icon. Therefore, morphing requires more than changing from one object to another object. As discussed above, independent claim 30 is allowable over the prior art of record for several reasons. Dependent claim 31 is also allowable over the prior art of record, at least for the reasons discussed above with regard to independent claim 30.

CONCLUSION

For at least the reasons stated above, claims 1-24 and 30-31 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 202/783-8400 or nberezny@shb.com (such communication via email is herein expressly granted) – to resolve the same.

The Request for Continued Examination fee of \$810 is being electronically filed herewith. It is believed that no additional fee is due. However, if that belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112 with reference to Attorney Docket Number 306210.01/MFCP.139203.

Respectfully submitted,

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